

## REMARKS

### **I. Present Status of Patent Application**

The Office Action rejects claims 33, 46, and 55 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent 5,748,104 to Argyroudis *et al.* (hereinafter “Argyroudis”). The Office Action also rejects claims 34, 36-41, 66, 72, and 73 under 35 U.S.C. §103(a) as being unpatentable over Argyroudis in view of U.S. Patent 4,056,684 to Lindstrom (hereinafter “Lindstrom”), or U.S. Patent 5,343,493 to Karimullah (hereinafter “Karimullah”), or U.S. Patent 5,629,687 to Jahr *et al.* (hereinafter “Jahr”).

The Office Action also rejects claims 34-45, 47-54, and 56-65 under 35 U.S.C. §103(a) as being unpatentable over Argyroudis in view of U.S. Patent 6,067,030 to Burnett (hereinafter “Burnett”). The Office also Action rejects claims 67-71 under 35 U.S.C. 103(a) as being unpatentable over Argyroudis in view of Lindstrom, or Karimullah, or U.S. Patent 5,629,687 to Sutton (hereinafter “Sutton”), or Jahr and in further in view of Burnett.

Upon entry of this amendment, claims 33, 35-50, 52-55, and 57-73 are pending in the present application. Claims 34, 51, and 56 are cancelled without prejudice, waiver, or disclaimer. Applicant reserves the right to pursue the subject matter of any cancelled claims, or variants thereof, in continuation applications to be filed separately. Claims 33, 46, 55, 66, 72, and 73 have been amended as set forth above. Support for these amendments are found in the specification and in the original claims. No new matter has been added.

For the reasons set forth herein, Applicant respectfully requests reconsideration and withdrawal of these rejections.

## **II. Summary of Present Application**

The present application is generally directed to a system for communicating information to a predetermined location using a general purpose transceiver having an open-ended architecture. One advantage of a general purpose transceiver with an open-ended architecture is the ability to use the same transceiver for many different uses. This modular approach gives the transceiver essentially the same function and architecture even though it can receive information from several types of devices, and transmit information to several different destinations.

In accordance with one aspect of the invention, the system includes a transmitter disposed at a first location and configured to transmit a signal including an instruction code and a telephone number to a transceiver. The instruction code uniquely identifies an instruction to be carried out. Preferably, the transmitter transmits a relatively low-power radio-frequency electromagnetic signal. The system further includes a transceiver disposed remotely from the transmitter (but within range of the transmitted signal) and is configured to receive the transmitted signal. The transceiver circuit includes a line interface circuit configured to interface with a telephone line that is part of the public-switched telephone network (PSTN) and initiate a phone call over the telephone line to the telephone number of a central location. In this regard, the transceiver further includes a controller configured to control both the reception of the transmitted signal and to control the communication of information over the telephone line. Finally, the system includes a central station remotely located from said transceiver but being in communication with said transceiver via the PSTN. The central station further includes a decoder configured to decode the instruction code.

As will be appreciated, the system summarized above provides an extremely robust and flexible platform for providing general purpose communications to a central location. In this

regard, the term “general purpose” may also be referred to as an “open ended” platform that may be readily adapted for a wide variety of uses. The instruction code is a relatively small data value that may be decoded to define a wide variety of functions. For example, an instruction code a single byte (eight bits) in size may define up to two hundred fifty six different functions or instructions. Similarly, an instruction code two bytes in size may define over sixty-five thousand ( $2^{16}$ ) functions or instructions.

In operation, the transmitter transmits the instruction code, perhaps along with other information such as a telephone number of a central location, to a transceiver located remotely, but generally nearby. The transceiver, which will preferably be integrated into a pay-type public telephone (but which can be integrated into virtually any telephone or other device having access to the PSTN), receives the transmitted information including the instruction code, and communicates this information to a predetermined location over the PSTN. In this regard, the transceiver is configured with a controller or other appropriate component to place a call to a phone number that can be obtained from the transmitted information. Once the connection is established, the instruction code may be communicated (as by modem) to the predetermined location. The predetermined location (which may be a central dispatch location) then decodes the instruction code to identify the function or instruction that corresponds to the code, and further initiates an appropriate response.

### **III. The Rejections to Independent Claims 33, 46, and 55 , and Independent Claims 66, 72, and 73 as a Group are Improper**

While the Office Action rejects independent claims 33, 46, and 55 as a group, Applicant respectfully submits that the scope of these claims are not co-extensive. In particular, Applicant respectfully points out that, by definition, method claims are not co-extensive with apparatus

claims. Therefore, the scope of method claim 46 is not co-extensive with the scope of apparatus claim 33 or means plus function claim 55. Notwithstanding, the Office Action rejects these claims on a substantially identical basis. Hence, Applicant respectfully submits that the Office Action improperly rejects claims 33, 46, and 55 as a group without individually considering each and every element of claims 33, 46, and 55. MPEP § 707.07. This reflects legal error, and the rejection should be withdrawn for this reason alone.

Similarly, the Office Action rejects independent claims 66, 72, and 73 as a group. Applicant respectfully submits that the scope of these claims are not co-extensive. In particular, the scope of method claim 72 is not co-extensive with the scope of apparatus claim 66, or means plus function claim 73. Notwithstanding, the Office Action rejects this claim on a substantially identical basis. Hence, Applicant respectfully submits that the Office Action improperly rejects claims 66, 72, and 73 as a group without individually considering each and every element of these claims. MPEP § 707.07. This reflects legal error, and the rejection should be withdrawn for this reason alone.

Nevertheless, in an effort to expedite prosecution of the application, Applicant addresses the novel and nonobvious features of these claims.

#### **IV. Independent Claim 33 and Dependent Claims 35-41 are Patentable Over the Cited Art**

##### **A. Independent Claim 33 is Patentable Over Argyroudis**

The Office Action rejects independent claim 33 under 35 U.S.C. §102(b) as being anticipated by Argyroudis. For the reasons set forth below, Applicant submits that claim 33 is patentable over Argyroudis and the rejection should be withdrawn.

“Anticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Thus, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

The Office Action alleges that Argyroudis “teaches a system for communicating information to a predetermined location comprising an extremely low power transmitter configured to wirelessly transmit an extremely lower-power signal (column 5 lines 25-32), a transceiver located remote from but in close proximity to the transmitter, the transceiver comprising a line interface circuit configured to interface with a telephone line which is part of the PSTN, an inherent processor configured to receive the signal and communicate the signal information to a central location.”

Argyroudis fails to disclose, teach or suggest every element of the Applicant’s claimed invention as required by 35 U.S.C. §102(b).

For example, Applicant's independent claim 33 defines:

33. A system for communicating information to a predetermined location, the system comprising:

an extremely low-power transmitter configured to wirelessly transmit an extremely low-power signal comprising the information;

a central location configured to receive the information and communicate via telephone line in the public service telephone network (PSTN); and

a transceiver, located remote from, but in close proximity to the transmitter and **configured to establish communication with the central location based on a telephone number included in the low-power signal**, the transceiver comprising:

a line interface circuit configured to interface with the telephone line; and

a controller configured to receive the low-power signal and communicate the information over the telephone line to the central location.

*(Emphasis Added).*

Applicant respectfully submits that independent claim 33 is patentable over Argyroudis for at least the reason that the reference fails to disclose the portions emphasized above in bold text.

Argyroudis discloses a wireless remote telemetry system used specifically for real-time reading and control of remote devices. Specifically, the disclosure describes the remote devices as utility meters located in customer sites. These systems do not include "general purpose" transceivers **"configured to establish communication with the central location based on a telephone number included in the low-power signal"** as in claim 33, but instead include transceivers designed to work specifically with a utility meter reading system and central station (col. 5, lines 11-58). The information in the signal is not used to determine the destination of data sent from metering units 102. The transceiver in the HBU merely receives the data and then relays the information to the central controller. Argyroudis does contemplate displaying the data to a user through HBU 122, however this is still merely displaying, rather than actively utilizing, information contained within the signal for purposes of determining a destination (col. 5, line 60

– col. 6 line 9). Thus, not only does Argyroudis not disclose the emphasized language, there is no advantage to include a telephone number in the low power signal or logic configured to identify a telephone number included in the low-power signal such that the transceiver establishes communication with the central location via the telephone number in the meter reading system of Argyroudis.

In contrast to the transceiver in Argyroudis, the general purpose transceiver claimed has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (pg. 1, line 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (pg. 20, line 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

In conclusion, because Argyroudis does not show a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal,”** Applicant respectfully asserts that Argyroudis does not anticipate independent

claim 33 or claims 35-41 which depend therefrom. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

**B. The Limitations Recited in Claim 34, Now Incorporated Into Independent Claim 33, are Not Obvious Over Argyroudis in View of Lindstrom, or Karimullah, or Sutton, or Jahr**

Claim 34 has been cancelled. Thus, the rejection of claim 34 is moot. However, in that the limitations of claim 34 have been incorporated into independent claim 33 (from which claim 34 directly depended), Applicant preemptively addresses the rejections presented in the Office Action as to claim 34.

The rejection of claim 33 based on §103(a) is improper because it is legally insufficient to establish a *prima facie* case of obviousness. To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974), MPEP 2143.03. “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 981, MPEP 2143.03. **The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.** If the examiner does not establish a *prima facie* case, the applicant is under no obligation to submit evidence of non-obviousness. MPEP 2141.

**1. *Prima Facie* Case of Obviousness Not Established for Failure to Make Rejection with Reasonable Specificity**

The Office Action has not established a *prima facie* case of obviousness for claim 34 because the rejection fails to make the rejection with the required specificity. First, the rejection is unclear whether it rejects claim 34 over Argyroudis in view of only Jahr, or rather in view of Lindstrom or Karimullah, or Sutton, or Jahr. Second, the rejection does not even allege that the



references show a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal.”** Third, the Office Action has not pointed to a specific location within Argyroudis, Lindstrom or Karimullah, Sutton, or Jahr where the claimed limitation can be found.

“A statement of the rejection that includes a large number rejections must explain with reasonable specificity at least one rejection, otherwise the examiner procedurally fails to establish a *prima facie case* of obviousness. *Ex Parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989).”

For example, paragraph 4 of the rejection begins by alleging that “Claims 34, 36-41, 66, 72, and 73 are rejected under 35 U.S.C. 103(a) as unpatentable over Argyroudis ... in view of Lindstrom ... or Karimullah ... or Sutton... or Jahr et al.” Yet, at the end of paragraph 4, the rejection alleges “[r]egarding claim 34 and 36-41, The combination teaches being able to send unique information to a remote station, see for instance Jahr et al.” No other reasoning is given for rejecting claim 34 based on Argyroudis, Lindstrom or Karimullah, Sutton, or Jahr. Thus, Applicant submits that the rejection is improper for at least the reason that the rejection does not show with any specificity which references were relied on to make the rejection.

Nonetheless, Applicant has diligently searched, but has not found in any combination of Argyroudis, Lindstrom, or Karimullah, Sutton, or Jahr that teach, suggest, or disclose that the transceiver is **“configured to establish communication with the central location based on a telephone number included in the low-power signal.”** For at least this reason, Applicant believes the rejection is improper.

Further, the rejection does not indicate where the claimed transceiver **“configured to establish communication with the central location based on a telephone number included in**

**the low-power signal**” occurs within Argyroudis, Lindstrom or Karimullah, or Sutton, or Jahr. In fact, as can be seen above, the rejection does not even allege that this feature is shown within any of the references.

Applicant asserts that such a broad and sweeping rejection taken by the Office Action is legally insufficient, and fails to make a *prima facie* case of obviousness. Specifically, claim 34 is incorrectly characterized by the Office Action as having the limitation of “sending unique information to a remote station.” Contrary to this allegation, claim 33 (which now includes the limitations of claim 34) requires that the transceiver be **“configured to establish communications with the central location based on a telephone number included in the low-power signal.”** Clearly this limitation recites more than “sending unique information,” but rather has further limiting features not addressed by the Office Action. This type of rejection is an attempt to shift the burden to the Applicant to prove that the elements of the claim are not shown in the cited reference before the Office Action has made a *prima facie* case of obviousness. Thus, Applicant respectfully submits that the Office Action fails to establish a proper *prima facie* case of obviousness as required under 35 U.S.C. §103(a).

**2. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

In order for a claim to be properly rejected under 35 U.S.C. §103(a), the combined teachings of the prior art references must disclose or suggest all features of the claimed invention to one of ordinary skill in the art. See, *e.g.*, *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Accordingly, a proper rejection of a claim under 35 U.S.C. § 103(a) must include a combination of references that together disclose, teach, or suggest all features of the claimed invention.

The limitation in Claim 33 of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal”** is not taught, suggested, or disclosed in Argyroudis, Lindstrom, or Karimullah, Sutton, or Jahr

As previously discussed above, Argyroudis does not teach, suggest, or disclose the limitation of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal”** as claim 33 requires.

Lindstrom describes a remote surveillance system including a unique message comprising sensor identification information and status information (col. 5, lines 3-21). However, Lindstrom does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central unit (col. 5, lines 12-21). Thus, Lindstrom does not show a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal”** as claim 33 requires.

Karimullah describes a personal assistance system for use in a cellular communications system. The transmitter in Karimullah emits a service request, such as a request for assistance, which is received by a cellular tower and routed to a central processing center (col. 4, lines 42-64). While the service request buttons in Karimullah may correspond to a telephone number (e.g. 911), the signal sent from transceiver 20 does not include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4 lines 3-14, and col. 4, lines 50-60). Instead, the spread spectrum burst of pulses sends the central processing center 90 a burst including “a preamble, timing refinement overhead, and data.” The data includes “a service request codeword ... , a control channel codeword ... and a transceiver identification codeword” (col. 4 lines 3-14, and col. 4, lines 50-60). Thus, Karimullah does not

show a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**” as claim 33 requires.

Sutton describes a remotely-monitored security system with control units at monitored sites (col. 3, lines 10-13). While Sutton’s control units appear to be able to initiate telephone calls to alert an operator of an event reported by the remote alarm systems, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station (col. 4, lines 41 – 57, and col. 4, line 66- col. 5, line 5). Thus, Sutton does not show a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**” as claim 33 requires.

Jahr describes a utility usage data and event acquisition system. While Jahr does appear to send unique information to a remote station as alleged, the reference does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4, lines 41 – 57). Thus, Jahr does not show a transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**” as claim 33 requires.

Thus, the Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that claim 33 is directed not to merely sending a telephone number to a remote station, but to sending a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the information. None of the references cited separately or in combination teach, suggest, or disclose this type of system. Therefore, Applicant asserts that the

claim limitation of a transceiver “configured to establish communication with the central location based on a telephone number included in the low-power signal,” in claim 33 as amended, is not disclosed, taught, or suggested by Argyroudis in view of Lindstrom, Karimullah, Sutton, or Jahr as alleged in paragraph 4 of the Office Action.

**3. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As yet another separate and independent basis for the patentability of claim 33, as amended, the Office Action failed to articulate a legally-satisfactory motivation to combine Argyroudis and Lindstrom or Karimullah, or Sutton, or Jahr. In this regard, Applicant refers to the recent Federal Circuit decision of *In re Sang-Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d 1430 (Fed. Cir. 2002). As clearly articulated in this opinion, general conclusions of obviousness will not be upheld, without clear evidentiary facts to support them. In this regard, Office Action rejections “cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies.” The *Sang-Su Lee* opinion further states that Office Actions “must make findings of facts, and present [their] reasoning in sufficient detail that [a] court may conduct meaningful review of the agency action.”

It is well-settled law that in order to properly support an obviousness rejection under 35 U.S.C. § 103(a), there must have been some teaching in the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. *W. L. Gore & Associates, Inc. v. Garlock Thomas, Inc.*, 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

“The consistent criteria for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this [invention] should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. ...” Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure... In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the

invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention."

(*Emphasis added.*) *In re Dow Chemical Company*, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, Applicant notes that there must not only be a suggestion to combine the functional or operational aspects of the combined references, but that the Federal Circuit also requires the prior art to suggest both the combination of elements and the structure resulting from the combination. *Stiftung v. Renishaw PLC*, 945 Fed.2d 1173 (Fed. Cir. 1991). Therefore, in order to sustain an obviousness rejection based upon a combination of any two or more prior art references, the prior art must properly suggest the desirability of combining the particular elements to create a system and method for communicating information to a predetermined location as claimed by the Applicant.

"Particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). "Even when the level of skill in the art is high, the [Office Action] must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination. In other words, the [Office Action] must explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious." *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998).

"A showing of a suggestion, teaching, or motivation to combine the prior art references is an 'essential component of an obviousness holding.'" *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed.Cir.2000)) (*quoting C.R. Bard, Inc., v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232

(Fed.Cir.1998)); The Federal Circuit has made it clear “that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.”; *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed.Cir.1999). Thus, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant.” *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed.Cir.1998).

In the present application, the Office Action has clearly failed to satisfy this evidentiary standard, which the Federal Circuit, in *In re Sang-Su Lee*, held that the Administrative Procedures Act mandates. For example, in rejecting claim 34, the Office Action stated only:

... The combination teaches being able to send unique information to a remote station, see for instance Jahr et al.

This is the total of the argument and reasoning set forth by the Office Action in reaching the conclusion that one would have been led to combine the divergent teachings of Argyroudis and Lindstrom or Karimullah, or Sutton, or Jahr. Applicant respectfully submits that this falls far short of the legal requirement articulated by the Federal Circuit in *In re Sung-Su Lee*. For this reason alone claim 33, as amended with the limitations of claim 34, patently defines over the prior art previously cited against claim 34 and thus is in condition for allowance.

**C. The Limitations Recited in Claim 34, Now Incorporated into Independent Claim 33, are Patentable Over Argyroudis in View of Burnett**

Claim 34 has been cancelled. Thus, the rejection of claim 34 is moot. However, in that the limitations of claim 34 have been incorporated into independent claim 33 (from which claim 34 directly depended), Applicant preemptively asserts that the subject matter of amended claim

33 is not disclosed, taught, or suggested by Argyroudis in view of Burnett as alleged in paragraph 5 of the Office Action as to claim 34.

**1. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine**

In paragraph 5, the Office Action admits that “Argyroudis does not teach the claimed subject matter in detail but Burnett teaches monitoring of a system wherein an alarm signal can be sent via the Internet, PSTN, wireless transmission and so forth (see column 3 lines 63-67) and the address associated with the origination point can be displayed on a graphical interface.” Finally, the Office Action alleges that it would be “obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.”

Again, Applicant asserts that the Office Action fails to state a proper motivation to combine Argyroudis and Burnett. This exemplifies a fundamental misunderstanding of the legal requirements underlying rejections under 35 U.S.C. § 103(a). Merely reciting a perceived benefit to a claimed combination, as done in the Office Action, is a legally insufficient basis for supporting the allegation of a motivation to combine references. In fact, every patent claim is a novel combination of known elements. Further, every patent claim achieves some benefit (e.g., utility) over the prior art. Using the rationale given in the Office Action, every potential patent claim could be rejected as obvious, simply by citing disparate prior art references that independently disclose claim elements, and alleging that the combination achieves a beneficial result (e.g., faster, more efficient, cost-effective, etc.) over the prior art. In short, the failure to adhere to the proper legal standards would largely eviscerate the existing legal framework of



103(a) rejections. Applicant has set forth the requisite legal standard in the arguments above in connection with the arguments presented above showing patentability over Argyroudis in view of Lindstrom, or Karimullah, or Sutton, or Jahr, and need not repeat them here. For this separate and independent basis, a rejection of claim 33 under this rationale would be legally insufficient.

Moreover, paragraph 5 of the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, claim 33 is directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claim 33 and therefore cannot, by definition, suggest the desirability to combine the references.

## **2. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

Even assuming, *arguendo*, that the allegations in the Office Action are true, none of the references show, separately or in combination, that the transceiver is “**configured to establish communication with the central location based on a telephone number included in the low-power signal**” as recited in claim 33. In fact, the Office Action wholly ignores this limitation and has not even alleged these teachings to be present within the cited patents. In this regard, paragraph 5 of the Office Action is wholly devoid of any reference to such a teaching anywhere within Argyroudis or Burnett. Not only do these elements further define claim 33 over the cited combination of Argyroudis and Burnett, but the lack of any reference to these features within the Office Action is a failure on the part of the Office Action to establish a *prima facie* case of obviousness. For at least this additional reason, claim 33 patentably defines over any combination of Argyroudis and Burnett.

As discussed above, Argyroudis does not teach, suggest, or disclose the limitation of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal”** as claim 33 requires.

Burnett describes a network wide system for monitoring and managing telecommunication equipment centers. While Burnett appears to disclose sending information from remote electronic sensors to a network operations center, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station. Instead, the information includes “fuel quantity, battery cell voltage, temperature of critical telecommunication equipment components, average temperature of the telecommunication equipment, current load, power load, and telecommunication equipment status” (col. 3, lines 47-62). Thus, Burnett does not teach, suggest, or disclose the limitation of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal”** as claim 33 requires.

The Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that claim 33 is directed not to merely sending a telephone number to a remote station, but to sending a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the unique information. None of the references cited separately or in combination teach, suggest, or disclose this type of system. Therefore, Applicant asserts that the claim limitation of a transceiver **“configured to establish communication with the central location based on a telephone number included in the low-power signal,”** in claim 33 as amended, is not disclosed, taught, or suggested by Argyroudis in view of Burnett as alleged in paragraph 5 of the Office Action.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 33 patently defines over the combination of Argyroudis and Burnett. Further, claims 35-45, which depend from claim 33 defines over the cited art for at least the same reasons.

**D. Dependent Claims 35-45 are Patentable Over the Cited Art**

Paragraph 4 of the Office Action further rejects claims 36-41 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Lindstrom or Karimullah, or Sutton, or Jahr. Additionally, paragraph 5 of The Office Action rejects claim 35-45 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Burnett. For the reasons set forth below, Applicant submits that claims 35-45 are patentable over Argyroudis in view of Lindstrom or Karimullah, or Sutton, or Jahr, as well as Argyroudis in view of Burnett and therefore the rejection should be withdrawn.

**1. Each of Claims 35-45 Depend from Claim 33, Which Applicant Submits is Patentable**

First, dependent claims 35-45 each depend from independent claim 33, and therefore patently define over the cited art for at least the reasons set out above in connection with claim 33. See, e.g. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**2. *Prima Facie* Case of Obviousness Not Established for Failure to Make Rejection with Reasonable Specificity**

The Office Action has not established a *prima facie* case of obviousness for claims 35-45 because the rejection fails to make the rejection with the required specificity. First, the rejection is unclear whether it rejects claim 36-41 over Argyroudis in view of only Jahr, or rather in view of Lindstrom or Karimullah, or Sutton, or Jahr. Second, the rejection does not even allege that the references show a transceiver “configured to establish communication with the central

**location based on a telephone number included in the low-power signal.”** Third, the Office Action has not pointed to a specific location within Argyroudis, Lindstrom or Karimullah, Sutton, or Jahr where the claimed limitation can be found.

“A statement of the rejection that includes a large number rejections must explain with reasonable specificity at least one rejection, otherwise the examiner procedurally fails to establish a *prima facie case* of obviousness. *Ex Parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989).”

For example, paragraph 4 of the rejection begins by alleging that “Claims 34, 36-41, 66, 72, and 73 are rejected under 35 U.S.C. 103(a) as unpatentable over Argyroudis ... in view of Lindstrom ... or Karimullah ... or Sutton... or Jahr et al.” Yet, at the end of paragraph 4, the rejection alleges “[r]egarding claim 34 and 36-41, The combination teaches being able to send unique information to a remote station, see for instance Jahr et al.” No other reasoning is given for rejecting claim 34 based on Argyroudis, Lindstrom or Karimullah, Sutton, or Jahr. Thus, Applicant submits that the rejection is improper for at least the reason that the rejection does not show with any specificity which references were relied on to make the rejection.

Nonetheless, Applicant has diligently searched, but has not found in any combination of Argyroudis, Lindstrom, or Karimullah, Sutton, or Jahr that teach, suggest, or disclose that the transceiver is “**configured to establish communication with the central location based on a telephone number included in the low-power signal.**” For at least this reason, Applicant believes the rejection is improper.

Further, the rejection does not indicate where the claimed transceiver “**configured to establish communication with the central location based on a telephone number included in the low-power signal**” occurs within Argyroudis, Lindstrom or Karimullah, or Sutton, or Jahr.

In fact, as can be seen above, the rejection does not even allege that this feature is shown within any of the references.

Applicant asserts that such a broad and sweeping rejection taken by the Office Action is legally insufficient, and fails to make a *prima facie* case of obviousness. Specifically, claims 36-41 are incorrectly characterized by the Office Action as having the limitation of “sending unique information to a remote station.” The Office Action did not address the individual limitations expressed in each of these claims which were directed to more than “sending unique information.” This type of rejection is an attempt to shift the burden to the Applicant to prove that the elements of the claim are not shown in the cited references before the Office Action has made a *prima facie* case of obviousness. Thus, Applicant respectfully submits that the Office Action fails to establish a proper *prima facie* case of obviousness as required under 35 U.S.C. §103(a).

Contrary to this allegation, claims 36-41 currently all require that the transceiver be **“configured to establish communications with the central location based on a telephone number included in the low-power signal.”** Clearly this limitation recites more than “sending unique information,” and has further limiting features not addressed by the Office Action. Thus, Applicant requests that the rejection to these claims be withdrawn and the claims allowed.

### **3. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

In rejecting claims 35-45, paragraph 5 of the Office Action alleges that the combination of Argyroudis in view of Burnett would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, most of Applicant’s claims are directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Only

claim 35 references using an I.P. address, and even then, the transceiver still uses the phone number to contact a remote number before using the I.P. address “to allow message routing in accordance with the IP protocol, using the Internet” (pg. 28, lines 3-8). Clearly, this rejection illustrates that the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claims 36-45 and therefore cannot, by definition, suggest the desirability to combine the references.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 33 and dependent claims 35-41, which depend therefrom, patently define over the cited art. Therefore it is respectfully submitted that the rejection of these claims should be withdrawn.

#### **V. Independent Claim 46 and Dependent Claims 47-50 and 52-54**

##### **A. Independent Claim 46 is Patentable Over Argyroudis**

The Office Action rejects independent claim 46 under 35 U.S.C. §102(b) as being anticipated by Argyroudis. For the reasons set forth below, Applicant submits that claim 46 is patentable over Argyroudis and the rejection should be withdrawn.

“Anticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Thus, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

The Office Action alleges that Argyroudis “teaches a system for communicating information to a predetermined location comprising an extremely low power transmitter configured to wirelessly transmit an extremely lower-power signal (column 5 lines 25-32), a

transceiver located remote from but in close proximity to the transmitter, the transceiver comprising a line interface circuit configured to interface with a telephone line which is part of the PSTN, an inherent processor configured to receive the signal and communicate the signal information to a central location.”

Argyroudis fails to disclose, teach or suggest every element of the Applicant’s claimed invention as required by 35 U.S.C. §102(b).

For example, Applicant’s independent claim 46 defines:

46. A method for communicating information to a predetermined location, the method comprising:

wirelessly transmitting an information signal from an extremely low-power transmitter to a remote transceiver, wherein the information signal is an extremely low-power signal **including a telephone number of a central location**;

receiving the information signal by remote transceiver;

placing a telephone call from circuitry coupled to the transceiver to the central location **identified by the telephone number** via a phone line which comprises part of a public switched telephone network (PSTN);

communicating at least a portion of the information signal from the transceiver to the central location; and

decoding at least a portion of the information signal by the central location.

*(Emphasis Added).*

Applicant respectfully submits that independent claim 46 is patentable over Argyroudis for at least the reason that the reference fails to disclose the portions emphasized above in bold text.

Again, Applicant calls attention to the fundamental differences between the claimed subject matter and Argyroudis. Argyroudis discloses a wireless remote telemetry system used specifically for real-time reading and control of remote devices. Specifically, the disclosure describes the remote devices as utility meters located in customer sites. These systems do not include “general purpose” transceivers, but instead include transceivers designed to work specifically with a utility meter reading system and central station described in the disclosure.

Further, Argyroudis does not disclose the limitation of claim 46 of a method of communicating information to a predetermined station by **placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number**, but instead includes a method designed to work specifically with a utility meter reading system and central station (col. 5, lines 11-58). The information in the signal is not used to determine the destination of data sent from metering units 102. The transceiver in the HBU merely receives the data and then relays the information to the central controller. Argyroudis does contemplate displaying the data to a user through HBU 122, however this is still merely displaying rather than actively utilizing information contained within the signal for purposes of determining a destination (col. 5, line 60 – col. 6 line 9). Thus, not only does Argyroudis not disclose the emphasized language, there is no advantage to include a telephone number in the low power signal or the step of placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number in the meter reading system of Argyroudis.

In contrast to the transceiver in Argyroudis, the method for communicating information claimed uses open-ended architecture that readily adapts it for a wide variety of uses and applications (pg. 1, lines 15-17). Specifically, a method for communicating information is compatible with any of a plurality of remote devices by obtaining data needed to contact a central station from the information sent by the individual transmitter (pg. 20, lines 6-12). The claimed method has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, the method uses a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual



transmitter (pg. 20, lines 6-12). For instance a single transceiver using the claimed method and located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the method uses transceivers that can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

In conclusion, because Argyroudis does not show the claimed method of communicating information to a predetermined station by **“placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number,”** Applicant respectfully asserts that Argyroudis does not anticipate independent claim 46 or claims 47-50 and 52-54 which depend therefrom. Therefore, Applicant respectfully requests that the rejection of these claims be withdrawn.

**B. The Limitations Recited in Dependent Claim 51, Now Incorporated Into Independent Claim 46, are Not Obvious Over Argyroudis in View of Burnett**

Claim 51 has been cancelled. Thus, the rejection of claim 51 is moot. However, in that the limitations of claim 51 have been incorporated into independent claim 46 (from which claim 51 directly depended), Applicant preemptively addresses the rejections presented in the Office Action as to claim 51.

**1. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

In paragraph 5, the Office Action admits that “Argyroudis does not teach the claimed subject matter in detail but Burnett teaches monitoring of a system wherein an alarm signal can

be sent via the Internet, PSTN, wireless transmission and so forth (see column 3 lines 63-67) and the address associated with the origination point can be displayed on a graphical interface.” Finally, the Office Action alleges that it would be “obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.”

Again, Applicant asserts that the Office Action fails to state a proper motivation to combine Argyroudis and Burnett. This exemplifies a fundamental misunderstanding of the legal requirements underlying rejections under 35 U.S.C. § 103(a). Applicant has set forth the requisite legal standard in the arguments above in showing patentability of claim 33 over Argyroudis in view of Lindstrom, or Karimullah, or Sutton, or Jahr, and need not repeat them here. For this separate and independent basis, a rejection of claim 46 under this rationale would be legally insufficient.

Specifically, paragraph 5 of the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, claim 46 is directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claim 46 and therefore cannot, by definition, suggest the desirability to combine the Argyroudis and Burnett references.

## **2. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

Even assuming, *arguendo*, that the allegations in the Office Action are true, none of the references show, separately or in combination that the information signal includes “a **telephone**

**number of a central location,”** nor do they include the step of “placing a telephone call from circuitry coupled to the transceiver to a central location **identified by the telephone number**” as claimed.

In order for a claim to be properly rejected under 35 U.S.C. §103(a), the combined teachings of the prior art references must disclose or suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Accordingly, a proper rejection of a claim under 35 U.S.C. § 103(a) must include a combination of references that together disclose, teach, or suggest all features of the claimed invention.

The limitation recited in claim 46 of a method of communicating information to a predetermined station by **“placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number,”** is not taught, suggested, or disclosed by Argyroudis in view of Burnett as alleged in paragraph 5 of the Office Action. In fact, the Office Action wholly ignores this limitation in the rejection of claim 51 and has not even alleged these teachings to be present within the cited patents. In this regard, paragraph 5 of the Office Action is wholly devoid of any reference to such a teaching anywhere within Argyroudis or Burnett. Not only do these elements further define claim 46 over the cited combination of Argyroudis and Burnett, but the lack of any reference to these features within the Office Action is a failure on the part of the Office Action to establish a *prima facie* rejection. For at least this additional reason, claim 46 patentably defines over Argyroudis and Burnett.

The Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that claim 46 is directed not to merely sending a telephone number to a remote station, but to sending

a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the unique information. None of the references cited separately or in combination teach, suggest, or disclose this type of system. Therefore, Applicant asserts that the claim limitation of a method of communicating information to a predetermined station by **“placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number,”** in claim 46 as amended, is not disclosed, taught, or suggested by Argyroudis in view of Burnett as alleged in paragraph 5 of the Office Action.

As discussed above, Argyroudis does not teach, suggest, or disclose the limitation of a method of communicating information to a predetermined station by **“placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number”** as claim 46 requires.

Burnett describes a network wide system for monitoring and managing telecommunication equipment centers. While Burnett appears to disclose sending information from remote electronic sensors to a network operations center, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station. Instead, the information includes “fuel quantity, battery cell voltage, temperature of critical telecommunication equipment components, average temperature of the telecommunication equipment, current load, power load, and telecommunication equipment status” (col. 3, lines 47-62). Thus, Burnett does not teach, suggest, or disclose the limitation of a method of communicating information to a predetermined station by **“placing a telephone call from circuitry coupled to the transceiver to a central location identified by the telephone number”** as claim 46 requires.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 46 patently defines over the cited references. Further, claims 47-50 and 52-54, which depend from claim 46, define over the cited references for at least the same reasons.

**B. Dependent Claims 47-50 and 52-54 are Patentable Over Argyroudis in View of Burnett**

The Office Action rejects claims 47-50 and 52-54 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Burnett. For the reasons set forth below, Applicant traverses this rejection.

**1. Each of Claims 47-50 and 52-54 Depend From Claim 46, Which Applicant Submits is Patentable**

Dependent claims 47-50 and 52-54 each depend from independent claim 46, and therefore patently define over the cited art for at least the reasons set out above in connection with claim 46. See, e.g. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**2. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine**

As a separate and independent basis for the patentability of claims 47-50 and 52-54 the Office Action failed to articulate a legally-satisfactory motivation to combine Argyroudis and Burnett. In the present application, the Office Action has clearly failed to satisfy this evidentiary standard. For example, in rejecting claims 47-50 and 52-54 the Office Action stated only:

... it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.

This is the total of the argument and reasoning set forth by the Office Action in reaching the conclusion that one would have been led to combine the divergent teachings of Argyroudis

and Burnett. Applicant respectfully submits that this falls far short of the legal requirement articulated by the Federal Circuit in *In re Sung-Su Lee*. For this reason alone, the rejections of the Office Action should be withdrawn.

Specifically, the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, most of Applicant’s claims are directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Only claim 52 references using an I.P. address, and even then, the transceiver still uses the phone number to contact a remote number before using the I.P. address “to allow message routing in accordance with the IP protocol, using the Internet.” (pg. 28, lines 3-8). Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to the claims 47-50 and 53-54 and therefore cannot, by definition, suggest the desirability to combine the references.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 46 and dependent claims 47-50 and 52-54, which depend therefrom, patently define over the combination of Argyroudis and Burnett. Therefore it is respectfully submitted that the rejection of these claims should be withdrawn.

**VI. Independent Claim 55 and Dependent Claims 57-65 are Patentable Over the Cited Art**

**A. Independent Claim 55 is Patentable Over Argyroudis**

The Office Action rejects independent claim 55 under 35 U.S.C. §102(b) as being anticipated by Argyroudis. For the reasons set forth below, Applicant submits that claim 55 is patentable over Argyroudis and the rejection should be withdrawn..

“Anticipation requires the disclosure in a single prior art reference of *each element* of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983)(emphasis added). Thus, every claimed feature of the claimed invention must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(b).

The Office Action alleges that Argyroudis “teaches a system for communicating information to a predetermined location comprising an extremely low power transmitter configured to wirelessly transmit an extremely lower-power signal (column 5 lines 25-32), a transceiver located remote from but in close proximity to the transmitter, the transceiver comprising a line interface circuit configured to interface with a telephone line which is part of the PSTN, an inherent processor configured to receive the signal and communicate the signal information to a central location.”

Argyroudis fails to disclose, teach or suggest every element of the Applicant’s claimed invention as required by 35 U.S.C. §102(b).

For example, Applicant’s independent claim 55 defines:

55. A system for communicating information to a central location, the system comprising:

means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number**;

means for receiving the extremely low-power signal, the means for receiving being remote but within close proximity to the wireless transmitting means;

means for telephonically transmitting the information to the central location **identified by the telephone number** via a public service telephone network (PSTN); and

means for receiving the information at the central location.

*(Emphasis Added).*

Applicant respectfully submits that independent claim 55 is patentable over Argyroudis for at least the reason that the reference fails to disclose the portions emphasized above in bold text.

First, Applicant notes that the emphasized elements are set forth in means plus function format. Pursuant to 35 U.S.C. § 112(6), a claim element recited in means-plus-function format “shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” 35 U.S.C. § 112, ¶ 6. The Federal Circuit has clearly endorsed this statutory mandate by holding that claims interpreted under 35 U.S.C. § 112, paragraph 6, are limited to the corresponding structure disclosed in the specification and its equivalents. *Kahn v. General Motors Corp.* 135 F.3d 1472, 45 U.S.P.Q.2d 1608 (Fed. Cir. 1998).

There should be no question but that the elements emphasized in claim 55 are to be construed pursuant to 35 U.S.C. § 112, paragraph 6. In *Greenberg v. Ethicon Endo-Surgical Inc.*, 91 F.3d 1580, 39 U.S.P.Q. 2d 1783 (Fed. Cir. 1996), the Federal Circuit stated that the use of “means for” language generally invokes 112(6). Indeed, only if means plus function claim elements recite sufficient structure to carry out the function are they taken out of the ambit of 35 U.S.C. § 112, paragraph 6. *Cole v. Kimberly-Clark Corp.*, 102 F.3d 524, 41 U.S.P.Q.2d 1001 (Fed. Cir. 1996).

Indeed, the Federal Circuit reiterated in *Sage Products, Inc. v. Devon Industries, Inc.*, 126 F.3d 1420, 44 U.S.P.Q.2d 1103 (Fed. Cir. 1998) that “the use of the word ‘means,’ which is part of the classic template for functional claim elements, gives rise to ‘a presumption that the inventor used the term advisedly to invoke the statutory mandates for means-plus-function clauses.” Ultimately, the Court in *Sage* construed the relevant claim elements under 35 U.S.C. §



112(6), because ‘means’ were recited, and the claim elements did not “explicitly recite[s] the structure, material, or acts needed to perform the [recited] functions. *Sage* at p. 1428. The Federal Circuit further acknowledged this presumption in *Al-Site Corp. v. VSI International, Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed. Cir. 1999).

Thus, claim elements expressed in means plus function format are construed in accordance with 35 U.S.C. § 112, paragraph 6, as set forth above, and as further described in *In re Donaldson*, 16 F.3d 1189, 29 U.S.P.Q.2d 1845 (Fed. Cir. 1994)(*en banc*). Therefore, the various “means” elements must be construed in accordance with the structure set forth in the present specification. In this regard, Applicant notes that, in *In re Donaldson*, The Board of Patent Appeals and Interferences advanced the legal proposition that “limitations appearing in the specification are *not* to be read into the claims of an application.” *In re Donaldson* at 1848. This argument, however, was rejected by the Federal Circuit, which held, as a matter of law, that “one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ... described therein, and equivalents thereof. *In re Donaldson* at 1848. Furthermore, the holding in *In re Donaldson* does not conflict with the principle that claims are to be given their broadest reasonable interpretation during prosecution. *In re Donaldson* at 1850.

The means-plus-function elements of claim 55 must be construed differently than the corresponding elements of the other claims. Therefore, the rejection of claim 33, for example, does not necessarily apply to claim 55. The Office Action, however, failed to differentiate the elements in this way. The fact that the Office Action rejects claim 55 on an identical basis with claims 33 and 46 reflects a fundamental error of law, insofar as the Office Action has accorded means plus function claim elements an identical interpretation with non-means plus function claim

elements. For at least this reason, the rejection of claim 55 should be withdrawn.

Applicant asserts that claim 55 defines over Argryoudis for at least the reason that Argryoudis does not disclose the corresponding structure corresponding to “a means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number.**” Further Argryoudis does not disclose the corresponding structure corresponding to a “means for telephonically transmitting the information to the central location **identified by the telephone number**” as claimed. Applicant has made this argument in relation to claims 33 and 46, above, and hereby restates and re-alleges the same arguments already presented.

In conclusion, because Argryoudis does not disclose the corresponding structure corresponding to “a means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number**” or the corresponding structure corresponding to a “means for telephonically transmitting the information to the central location **identified by the telephone number,**” Applicant respectfully asserts that Argryoudis does not anticipate independent claim 56. Therefore, the rejection of claim 56 should be withdrawn.

**B. The Limitations Recited in Claim 56, Now Incorporated Into Independent Claim 55, are Not Obvious Over Argryoudis in View of Burnett**

Claim 56 has been cancelled. Thus, the rejection of claim 56 is moot. However, in that the limitations of claim 56 have been incorporated into independent claim 55 (from which claim 56 directly depended), Applicant preemptively addresses the rejections presented in the Office Action as to claim 56.

1. ***Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

The Office Action admits that “Argyroudis does not teach the claimed subject matter in detail but Burnett teaches monitoring of a system wherein an alarm signal can be sent via the Internet, PSTN, wireless transmission and so forth (see column 3 lines 63-67) and the address associated with the origination point can be displayed on a graphical interface.” Finally, the Office Action alleges that it would be “obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.”

Applicant asserts that the Office Action fails to state a proper motivation to combine Argyroudis and Burnett. This exemplifies a fundamental misunderstanding of the legal requirements underlying rejections under 35 U.S.C. §103(a). Applicant has set forth the requisite legal standard in the arguments above in showing patentability of claim 33 over Argyroudis in view of Lindstrom, or Karimullah, or Sutton, or Jahr, and need not repeat them here. For this separate and independent basis, a rejection of claim 55 under this rationale would be legally insufficient.

Specifically, paragraph 5 of the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, claim 56 is directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claim 55 and therefore cannot, by definition, suggest the desirability to combine the references.

2. ***Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

Even assuming, *arguendo*, that the allegations in the Office Action are true, none of the references show, separately or in combination, that the corresponding structure disclosed in the present specification that corresponds to the various means elements is distinct from that disclosed in the cited patents. For example, Argyroudis does not disclose that the information signal includes **“a telephone number of a central location”** as recited in amended claim 55. Additionally, Argyroudis does not disclose that the means for telephonically transmitting **identifies the central location by the telephone number**. In fact, the Office Action wholly ignores this limitation in the rejection of claim 56 and has not even alleged these teachings to be present within the cited patents. In this regard, paragraph 5 of the Office Action is wholly devoid of any reference to such a teaching anywhere within Argyroudis or Burnett. Not only do these elements further define claim 55 over the cited combination of Argyroudis and Burnett, but the lack of any reference to these features within the Office Action is a failure on the part of the Office Action to establish a *prima facie* rejection. For at least this additional reason, claim 55 patently defines over Argyroudis and Burnett.

As discussed above, Argyroudis does not teach, suggest, or disclose the structure corresponding to the limitation of “a means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number**” or the corresponding structure corresponding to a “means for telephonically transmitting the information to the central location **identified by the telephone number**” as claim 56 requires.

Burnett describes a network wide system for monitoring and managing telecommunication equipment centers. While Burnett appears to disclose sending information from remote electronic sensors to a network operations center, it does not teach, suggest, or

disclose that a phone number transmitted to a transceiver in the terminal is used to establish communication with the central monitoring station. Instead, the information includes “fuel quantity, battery cell voltage, temperature of critical telecommunication equipment components, average temperature of the telecommunication equipment, current load, power load, and telecommunication equipment status” (col. 3, lines 47-62). Thus, Burnett does not teach, suggest, or disclose the structure corresponding to the limitation of “a means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number**” or the corresponding structure corresponding to a “means for telephonically transmitting the information to the central location **identified by the telephone number**” as claim 56 requires.

The Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that the claim is directed not to merely sending a telephone number to a remote station, but to sending a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the unique information. None of the references cited separately or in combination teach, suggest, or disclose the structure corresponding to the limitation of “a means for wirelessly transmitting an extremely low-power signal comprising the information, **the information including a telephone number**” or the corresponding structure corresponding to a “means for telephonically transmitting the information to the central location **identified by the telephone number**” as claim 56 requires. Therefore, Applicant asserts that the subject matter of claim 55, as amended, is not disclosed, taught, or suggested by Argyroudis in view of Burnett as alleged in paragraph 5 of the Office Action.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 55 patently defines over the combination of Argyroudis and Burnett. Further, claims 57-65, which depend from claim 55, define over the cited references for at least the same reasons.

**C. Dependent Claims 57-65 are Patentable Over Argyroudis in View of Burnett**

The Office Action rejects claims 57-65 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Burnett. For the reasons set forth below, Applicant traverses this rejection.

**1. Each of Claims 57-65 Depend From Claim 55, Which Applicant Submits is Patentable**

Dependent claims 57-65 each depend from independent claim 55, and therefore patently define over the cited art for at least the reasons set out above in connection with claim 55. See, e.g. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**2. Prima Facie Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As a separate and independent basis for the patentability of claims 57-65 the Office Action failed to articulate a legally-satisfactory motivation to combine Argyroudis and Burnett. In the present application, the Office Action has clearly failed to satisfy this evidentiary standard. For example, in rejecting claims 57-65 the Office Action stated only:

... it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.

This is the total of the argument and reasoning set forth by the Office Action in reaching the conclusion that one would have been led to combine the divergent teachings of Argyroudis and Burnett. Applicant respectfully submits that this falls far short of the legal requirement

articulated by the Federal Circuit in *In re Sung-Su Lee*. For this reason alone, the rejections of the Office Action should be withdrawn.

Specifically, the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, most of Applicant’s claims are directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Only claim 57 references using an I.P. address, and even then, the transceiver still uses the phone number to contact a remote number before using the I.P. address “to allow message routing in accordance with the IP protocol, using the Internet.” (pg. 28, lines 3-8). Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claims 58-65 and therefore cannot, by definition, suggest the desirability to combine the references.

In summary, for at least the foregoing reasons, Applicant submits that independent claim 55 and dependent claims 57-65, which depend therefrom, patentably define over the cited art. Therefore it is respectfully submitted that the rejection of these claims should be withdrawn.

**VII. Independent Claim 66 and Dependent Claims 67-71 are Patentable Over the Cited Art**

**A. Independent Claim 66 is Patentable Over Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr**

The Office Action rejects independent claim 66 under 35 U.S.C. §103(a) as being unpatentable over Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr. For the reasons set forth below, Applicant submits that claim 66 is patentable over Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr and therefore the rejection should be withdrawn.

In paragraph 4, the Office Action alleges that Argyroudis teaches the system for communicating information to a predetermined location substantially as claimed. The Office

Action further states that “the combination including Lindstrom teaches a transceiver unit which can receive information and would be obvious to have a receiver and a transmitter for receiving/transmitting signals to a remote station (see 122 of fig. 1 or Argyroudis and fig. 2 of Lindstrom of fig. 1 of Karimullah).”

In order for a claim to be properly rejected under 35 U.S.C. §103(a), the combined teachings of the prior art references must disclose or suggest all features of the claimed invention to one of ordinary skill in the art. See, *e.g.*, *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Accordingly, a proper rejection of a claim under 35 U.S.C. §103(a) must include a combination of references that together disclose, teach, or suggest all features of the claimed invention.

**1. *Prima Facie* Case of Obviousness Not Established for Failure to Make Rejection With Reasonable Specificity**

The Office Action has not established a *prima facie* case of obviousness for claim 66 because the rejection fails to make the rejection with the required specificity. Here, the rejection is unclear whether it rejects claim 66 over Argyroudis in view of only Lindstrom or Karimullah, or rather in view of Lindstrom or Karimullah, or Sutton, or Jahr. Nonetheless, Applicant has diligently searched, but has not found the recited features in any combination of over Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr that teach, suggest, or disclose that the *transceiver itself* has the ability to identify the destination of a formatted electric signal by a telephone number included within the information in the low-power signal.

“A statement of the rejection that includes a large number rejections must explain with reasonable specificity at least one rejection, otherwise the examiner procedurally fails to establish a *prima facie case* of obviousness. *Ex Parte Blanc*, 13 USPQ2d 1383 (Bd. Pat. App. & Inter. 1989).”



For example, paragraph 4 of the rejection begins by alleging that “Claims 34, 36-41, 66, 72, and 73 are rejected under 35 U.S.C. 103(a) as unpatentable over Argyroudis ... in view of Lindstrom ... or Karimullah ... or Sutton... or Jahr et al.” Yet, at the end of paragraph 4, the rejection alleges;

Regarding claim 66, the combination including Lindstrom teaches a transceiver unit which can receive information and would be obvious to have a receiver and a transmitter for receiving/transmitting signals to a remote station (see 122 of fig. 1 of Argyroudis and fig2 of Lindstrom of fig.1 of Karimullah). Furthermore, see the explanation as set forth regarding claim 72.

Thus, Applicant submits that the rejection is improper for at least the reason that the rejection does not show with any specificity which references were relied on to make the rejection.

Nonetheless, Applicant has diligently searched, but has not found in any combination of Argyroudis, Lindstrom, or Karimullah, Sutton, or Jahr that teach, suggest, or disclose that the transceiver is **“configured to establish communication with the central location based on a telephone number included in the low-power signal.”** For at least this reason, Applicant believes the rejection is improper.

**2. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

Argyroudis, viewed in combination with Lindstrom, or Karimullah, or Sutton, or Jahr fails to disclose, teach or suggest every element of the Applicant’s claimed invention as required by 35 U.S.C. §103(a).

For example, Applicant's claim 66 defines:

66. (Currently Amended) A transceiver that wirelessly communicates with a transmitter and telephonically communicates with a central location, the transceiver comprising:

- a wireless receiver configured to wirelessly receive a low-power signal, the low-power signal being wirelessly transmitted in close proximity to the receiver, the low-power signal comprising **encoded information and a telephone number**;

- a telephonic transmitter configured to transmit a formatted electric signal over a telephone line **to a destination identified by the telephone number**, the telephone line comprising part of the public switched telephone network (PSTN); and

- a controller comprising:

- a first portion, connected to the wireless receiver, configured to obtain the information encoded in the received low-power signal; and

- a second portion, connected to the telephonic transmitter, configured to deliver the obtained information to the transmitter.

*(Emphasis added).*

Applicant respectfully submits that independent claim 66 is patentable over the cited art for at least the reason that the references, separately and in combination, fail to disclose the portions emphasized above in bold text.

Argyroudis discloses a wireless remote telemetry system used specifically for real-time reading and control of remote devices. Specifically, the disclosure describes the remote devices as utility meters located in customer sites. These systems do not include general purpose transceivers including transmitters that transmit a signal **"to a destination identified by the telephone number"** included in a low power signal, but instead include transceivers designed to work specifically with a utility meter reading system and central station (col. 5, lines 11-58). The information in the signal is not used to determine the destination of data sent from metering units 102. The transceiver in the HBU merely receives the data and then relays the information to the central controller. Argyroudis does contemplate displaying the data to a user through HBU 122, however this is still merely displaying rather than actively utilizing information contained within the signal for purposes of determining a destination (col. 5, line 60 – col. 6 line 9). Thus, not

only does Argyroudis not disclose the emphasized language, there is no advantage to include a telephone number in the low power signal or logic configured to identify a telephone number included in the low-power signal such that the transceiver establishes communication with the central location via the telephone number in the meter reading system of Argyroudis.

In contrast to the transceiver in Argyroudis, the general purpose transceiver claimed has an open-ended architecture that is readily adaptable for a wide variety of uses and applications (pg. 1, lines 15-17). The claimed transceiver itself has the ability not only to relay the information to the central location, but also to determine the telephone number included in the low power signal and establish communication with the central server based on that telephone number. Thus, a general purpose transceiver has the capability of working with any of a plurality of remote devices by obtaining data needed to contact a particular central station from the information sent by the individual transmitter (pg. 20, lines 6-12). For instance, a single transceiver located in the same proximity of transmitters associated with, for example, vending machines and ATM machines will be able to identify the telephone number sent by the transmitter that corresponds with its particular central station, call the telephone number, and transmit the information to the central location. Thus, the claimed transceivers can be generically manufactured and installed in mass without customized programming, installation, or design for one particular intended use.

Lindstrom describes a remote surveillance system including a unique message comprising sensor identification information and status information (col. 5, lines 3-21). However, Lindstrom does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central unit (col. 5, lines 12-21). Thus, Lindstrom does not disclose **“a telephonic transmitter configured to**

**transmit a formatted electric signal over a telephone line to a destination identified by the telephone number”** as claim 66 requires.

Karimullah describes a personal assistance system for use in a cellular communications system. The transmitter in Karimullah emits a service request, such as a request for assistance, which is received by a cellular tower and routed to a central processing center (col. 4, lines 42-64). While the service request buttons in Karimullah may correspond to a telephone number (e.g. 911), the signal sent from transceiver 20 does not include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4 lines 3-14, and col. 4, lines 50-60). Instead, the spread spectrum burst of pulses sends the central processing center 90 a burst including “a preamble, timing refinement overhead, and data.” The data includes “a service request codeword ... , a control channel codeword ... and a transceiver identification codeword” (col. 4 lines 3-14, and col. 4, lines 50-60). Thus, Karimullah does not disclose **“a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number”** as claim 66 requires.

Sutton describes a remotely-monitored security system with control units at monitored sites (col. 3, lines 10-13). While Sutton’s control units appear to be able to initiate telephone calls to alert an operator of an event reported by the remote alarm systems, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station (col. 4, lines 41 – 57, and col. 4, line 66- col. 5, line 5). Thus, Sutton does not disclose **“a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number”** as claim 66 requires.

Jahr describes a utility usage data and event acquisition system. While Jahr does appear

to send unique information to a remote station as alleged, Jahr does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4, lines 41 – 57). Thus, Jahr does not disclose **“a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number”** as claim 66 requires.

Thus, the Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station using a receiver and a transmitter. Applicant reemphasizes that the claim is directed not to merely sending a telephone number to a remote station, but to sending a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the information. None of the references cited separately or in combination teach, suggest, or disclose this type of system. Therefore, Applicant asserts that the claim limitation of **“a telephonic transmitter configured to transmit a formatted electric signal over a telephone line to a destination identified by the telephone number”** in claim 66, is not disclosed, taught, or suggested by Argyroudis in view of Lindstrom, Karimullah, Sutton, or Jahr as alleged in paragraph 4 of the Office Action.

**3. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As a separate and independent basis for the patentability of claim 66, the Office Action failed to articulate a legally-satisfactory motivation to combine Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr as required by *In re Sang-Su Lee*, 277 F.3d 1338, 61 U.S.P.Q.2d

1430 (Fed. Cir. 2002). In the present application, the Office Action has clearly failed to satisfy this evidentiary standard. For example, in rejecting claims 66, the Office Action stated only:

... the combination including Lindstrom teaches a transceiver unit which can receive information and would be obvious to have a receiver and a transmitter for receiving/transmitting signals to a remote station (see 122 of fig. 1 of Argyroudis and fig. 2 of Lindstrom of fig. 1 of Karimullah). Furthermore see the explanation as set forth regarding claim 72.

This is the total of the argument and reasoning set forth by the Office Action in reaching the conclusion that one would have been led to combine the divergent teachings of Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr. Applicant respectfully submits that this falls far short of the legal requirement articulated by the Federal Circuit in *In re Sung-Su Lee*.

For at least the foregoing reasons, the rejection of independent claim 66 should be withdrawn, and the claim allowed.

**B. Dependent Claims 67-71 are Patentable Over Argyroudis in View of Lindstrom, Karimullah, or Sutton and further in View of Burnett**

The Office Action rejects claims 67-71 under 35 U.S.C. §103(a) as being allegedly unpatentable over Argyroudis in view of Lindstrom, Karimullah, or Sutton and further in view of Burnett. For the reasons set forth below, Applicant traverses this rejection.

**1. Each of Claims 67-71 Depend from Claim 66, Which Applicant Submits is Patentable**

Dependent claims 67-71 each depend from independent claim 66, and therefore patently define over the cited art for at least the reasons set out above in connection with claim 66. See, e.g. *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

**2.     *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As a separate and independent basis for the patentability of claims 67-71, the Office Action failed to articulate a legally-satisfactory motivation to combine Argyroudis and Burnett. In the present application, the Office Action has clearly failed to satisfy this evidentiary standard. For example, in rejecting claims 67-71 the Office Action stated only:

... it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Burnett into that of Argyroudis thus making it possible to transmit an alarm signal via the Internet to include pertinent information about the originating address.

This is the total of the argument and reasoning set forth by the Office Action in reaching the conclusion that one would have been led to combine the divergent teachings of Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr, and Burnett. Applicant respectfully submits that this falls far short of the legal requirement articulated by the Federal Circuit in *In re Sung-Su Lee*. For this reason alone, the rejections of the Office Action should be withdrawn.

Moreover, the Office Action states that the combination would have been obvious “to ... make it possible to transmit ... via the *Internet*...” However, Applicant’s claims 67-71 are directed to the communication of information over a phone line of the PSTN, and NOT IP communications over the Internet. Clearly, the Office Action has misunderstood and misconstrued the claimed invention. Thus, the stated motivation to combine is not even relevant to claims 67-71 and therefore cannot, by definition, suggest the desirability to combine the references. The rejections to claims 67-71 should be withdrawn for this additional reason.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 66 and dependent claims 67-71, which depend therefrom, patently define over the cited art. Therefore it is respectfully submitted that the rejection of these claims should be withdrawn.

**VIII. Independent Claim 72 is Patentable Over Argyroudis in View of Lindstrom, Karimullah, or Sutton, or Jahr**

The Office Action rejects claim 72 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Lindstrom, Karimullah, or Sutton, or Jahr. For the reasons set forth below, Applicant traverses this rejection.

In paragraph 4, the Office Action alleges that Argyroudis teaches the system for communicating information to a predetermined location substantially as claimed. The Office Action further states that “a unique message would be sent indicative of specific messages or data from sensors associated with different parties,” but “for the sake of argument, the examiner takes official notice that sending unique identification associated with messages or data transmitted to a central station from a remote station is notoriously well known.”

In order for a claim to be properly rejected under 35 U.S.C. § 103(a), the combined teachings of the prior art references must disclose or suggest all features of the claimed invention to one of ordinary skill in the art. See, *e.g.*, *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Accordingly, a proper rejection of a claim under 35 U.S.C. § 103(a) must include a combination of references that together disclose, teach, or suggest all features of the claimed invention.

**A. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As a separate and distinct reason for patentability of claim 72, Applicant asserts that the Office Action fails to state a proper motivation to combine Argyroudis and Lindstrom, Karimullah, or Sutton, or Jahr. This exemplifies a fundamental misunderstanding of the legal requirements underlying rejections under 35 U.S.C. § 103(a). Applicant has set forth the requisite legal standard in the arguments above in showing patentability of claim 33 over



Argyroudis in view of Lindstrom, or Karimullah, or Sutton, or Jahr, and need not repeat them here. For this separate and independent basis, the rejection of claim 72 is legally insufficient.

**B. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

The combination of Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr fails to disclose, teach or suggest every element of the Applicant's claimed invention as required by 35 U.S.C. §103(a).

For example, Applicant's Claim 72 defines:

72. A method for relaying an electronic message from an extremely low-power transmitter to a central location, the method comprising:

wirelessly transmitting an information signal from the transmitter to a remotely located transceiver, the information signal comprising a unique message, wherein the transmitter is in close proximity to the transceiver;

receiving the information by the remotely located transceiver;

placing a telephone call from the transceiver to the central location, **the central location being identified by a phone number contained within the information signal**, over a phone line comprising part of a public switched telephone network (PSTN); and

communicating the unique message code from the transceiver to the central location.

*(Emphasis added).*

Even assuming, *arguendo*, that the allegations in the Office Action are true, none of the references show, separately or in combination the step of "placing a telephone call from the transceiver to the central location, **the central location being identified by a phone number contained within the information signal**, over a phone line comprising part of a public switched telephone network (PSTN)." As described in detail above, the above limitation is more than the transmission of "unique information." The limitation requiring "the step of placing a telephone call from the transceiver to the central station" and that "the central location being identified by a phone number contained within the information signal" enables the method to be

used with multi-function, open-ended transceivers that are readily adapted for a wide variety of uses and applications.

Applicant has diligently searched, but has not found anything in the cited references that teach, suggest, or disclose that a telephone call is placed to a central location, the central location being identified by the telephone number contained within the information signal.

On the contrary, Argyroudis, for instance, merely teaches that the central server, not the transceiver, has the ability to decode or react to the information sent from remote transmitters (e.g. see Argyroudis, col. 4, lines 35-40).

Lindstrom describes a remote surveillance system including a unique message comprising sensor identification information and status information (col. 5, lines 3-21). However, Lindstrom does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central unit (col. 5, lines 12-21). Thus, Lindstrom does not show the step of **“placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal”** as claim 72 requires.

Karimullah describes a personal assistance system for use in a cellular communications system. The transmitter in Karimullah emits a service request, such as a request for assistance, which is received by a cellular tower and routed to a central processing center (col. 4, lines 42-64). While the service request buttons in Karimullah may correspond to a telephone number (e.g. 911), the signal sent from transceiver 20 does not include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4 lines 3-14, and col. 4, lines 50-60). Instead, the spread spectrum burst of pulses sends the central processing center 90 a burst including “a preamble, timing refinement overhead, and data.” The

data includes “a service request codeword ... , a control channel codeword ... and a transceiver identification codeword” (col. 4 lines 3-14, and col. 4, lines 50-60). Thus, Karimullah does not show the step of **“placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal”** as claim 72 requires.

Sutton describes a remotely-monitored security system with control units at monitored sites (col. 3, lines 10-13). While Sutton’s control units appear to be able to initiate telephone calls to alert an operator of an event reported by the remote alarm systems, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station (col. 4, lines 41 – 57, and col. 4, line 66- col. 5, line 5). Thus, Sutton does not show the step of **“placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal”** as claim 72 requires.

Jahr describes a utility usage data and event acquisition system. While Jahr does appear to send unique information to a remote station as alleged, the reference does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4, lines 41 – 57). Thus, Jahr does not show the step of **“placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal”** as claim 72 requires.

Thus, the Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that claim 72 is directed not to merely sending a telephone number to a remote station, but to sending a

telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the information. None of the references cited separately or in combination teach, suggest, or disclose this type of system. Therefore, Applicant asserts that the claim limitation including the step of **“placing a telephone call from the transceiver to the central location, the central location being identified by a phone number contained within the information signal”** in claim 72, as amended, is not disclosed, taught, or suggested by Argyroudis in view of Lindstrom, Karimullah, Sutton, or Jahr as alleged in paragraph 4 of the Office Action. For this reason alone claim 72 patently defines over the cited prior art and thus is in condition for allowance.

**IX. Independent Claim 73 is Patentable Over Argyroudis in View of Lindstrom, or Karimullah, or Sutton, or Jahr**

The Office Action rejects claim 73 under 35 U.S.C. §103(a) as allegedly unpatentable over Argyroudis in view of Lindstrom, or Karimullah, or Sutton, or Jahr. For the reasons set forth below, Applicant traverses this rejection.

In paragraph 4, the Office Action alleges that Argyroudis teaches the system for communicating information to a predetermined location substantially as claimed. The Office Action further states that “a unique message would be sent indicative of specific messages or data from sensors associated with different parties,” but “for the sake of argument, the examiner takes official notice that sending unique identification associated with messages or data transmitted to a central station from a remote station is notoriously well known.”

**A. Office Action Improperly Construed Claim 73 On An Identical Interpretation With Non-means Plus Function Claim Elements**

Applicant notes that the emphasized elements are set forth in means plus function format. Pursuant to 35 U.S.C. § 112(6), a claim element recited in means-plus-function format “shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” 35 U.S.C. § 112, ¶ 6. The Federal Circuit has clearly endorsed this statutory mandate by holding that claims interpreted under 35 U.S.C. § 112, paragraph 6, are limited to the corresponding structure disclosed in the specification and its equivalents. *Kahn v. General Motors Corp.*, 135 F.3d 1472, 45 U.S.P.Q.2d 1608 (Fed. Cir. 1998).

There should be no question but that the elements emphasized in claim 73 are to be construed pursuant to 35 U.S.C. § 112, paragraph 6. In *Greenberg v. Ethicon Endo-Surgical Inc.*, 91 F.3d 1580, 39 U.S.P.Q. 2d 1783 (Fed. Cir. 1996), the Federal Circuit stated that the use of “means for” language generally invokes 112(6). Indeed, only if means plus function claim elements recite sufficient structure to carry out the function are they taken out of the ambit of 35 U.S.C. § 112, paragraph 6. *Cole v. Kimberly-Clark Corp.*, 102 F.3d 524, 41 U.S.P.Q.2d 1001 (Fed. Cir. 1996).

Indeed, the Federal Circuit reiterated in *Sage Products, Inc. v. Devon Industries, Inc.*, 126 F.3d 1420, 44 U.S.P.Q.2d 1103 (Fed. Cir. 1998) that “the use of the word ‘means,’ which is part of the classic template for functional claim elements, gives rise to ‘a presumption that the inventor used the term advisedly to invoke the statutory mandates for means-plus-function clauses.” Ultimately, the Court in *Sage* construed the relevant claim elements under 35 U.S.C. § 112(6), because ‘means’ were recited, and the claim elements did not “explicitly recite[s] the structure, material, or acts needed to perform the [recited] functions. *Sage* at p. 1428. The

Federal Circuit further acknowledged this presumption in *Al-Site Corp. v. VSI International, Inc.*, 174 F.3d 1308, 50 U.S.P.Q.2d 1161 (Fed. Cir. 1999).

Thus, claim elements expressed in means plus function format are construed in accordance with 35 U.S.C. § 112, paragraph 6, as set forth above, and as further described in *In re Donaldson* 16 F.3d 1189, 29 U.S.P.Q.2d 1845 (Fed. Cir. 1994)(*en banc*). Therefore, the various “means” elements must be construed in accordance with the structure set forth in the present specification. In this regard, Applicant notes that, in *In re Donaldson*, The Board of Patent Appeals and Interferences advanced the legal proposition that “limitations appearing in the specification are *not* to be read into the claims of an application.” *In re Donaldson* at 1848. This argument, however, was rejected by the Federal Circuit, which held, as a matter of law, that “one construing means-plus-function language in a claim must look to the specification and interpret that language in light of the corresponding structure ... described therein, and equivalents thereof. *In re Donaldson* at 1848. Furthermore, the holding in *In re Donaldson* does not conflict with the principle that claims are to be given their broadest reasonable interpretation during prosecution. *In re Donaldson* at 1850.

The means-plus-function elements of claim 73 must be construed differently than the corresponding elements of the other claims. Therefore, the rejection of claim 72, for example, does not necessarily apply to claim 73. The Office Action, however, failed to differentiate the elements in this way. The fact that the Office Action rejects claim 73 on an identical basis with claim 72 reflects a fundamental error of law, insofar as the Office Action has accorded means plus function claim elements an identical interpretation with non-means plus function claim elements. For at least this reason, the rejection of claim 73 should be withdrawn.

In order for a claim to be properly rejected under 35 U.S.C. § 103(a), the combined teachings of the prior art references must disclose or suggest all features of the claimed invention to one of ordinary skill in the art. See, e.g., *In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q.2d 871, 881 (C.C.P.A. 1981). Accordingly, a proper rejection of a claim under 35 U.S.C. §103(a) must include a combination of references that together disclose, teach, or suggest all features of the claimed invention.

**B. *Prima Facie* Case of Obviousness Not Established for Failure to Establish a Proper Suggestion or Motivation to Combine References**

As a separate and distinct reason for patentability of claim 73, Applicant asserts that the Office Action fails to state a proper motivation to combine Argyroudis and Lindstrom, Karimullah, or Sutton, or Jahr. The fact that the claimed invention may be within the capabilities of one of ordinary skill in the art is not sufficient by itself to establish *prima facie* obviousness. MPEP 2143.01

In rejecting claim 73, Office Action has merely stated that “sending unique identification associated with messages or data transmitted to a central station from a remote station is notoriously well known,” but has failed to mention any reasoning to combine the references. This is legal error, and prevents the Applicant from making a proper legal argument in rebuttal of a stated motivation to combine.

This exemplifies a fundamental misunderstanding of the legal requirements underlying rejections under 35 U.S.C. § 103(a). “A statement that modifications of the prior art to meet the claimed invention would have been ‘well within the ordinary skill of the art at the time the claimed invention was made’ because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie*

case of obviousness **without some objective reason to combine the teachings of the references**. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1992). See also *In re Kotzab*, 217 F.3d 1365, 1371 55 USPQ2d 1313, 1318 (Fed. Cir. 2000). MPEP 2143.01. For this separate and independent basis, the rejection of claim 73 is legally insufficient.

**B. *Prima Facie* Case of Obviousness Not Established for Failure to Teach All Elements**

Even assuming, *arguendo*, that the combination is proper, the combination of Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr fails to disclose, teach or suggest every element of the Applicant's claimed invention as required by 35 U.S.C. §103(a).

Applicant's claim 73 defines:

73. A transceiver comprising:
- means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**;
  - means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN); and
  - means for obtaining the message code from the electric signal and delivering the obtained code to the means for transmitting over the phone line.
- (Emphasis added).*

Applicant respectfully submits that independent claim 73 is patentable over the cited art for at least the reason that the references, separately and in combination, fail to disclose the portions emphasized above in bold text.

The corresponding structure disclosed in the present specification that corresponds to the various means elements is distinct from that disclosed in the cited patents. Claim 73 requires that the predetermined destination of the information signal be "**identified by the telephone number**." Simply stated, neither Argyroudis, Lindstrom, Karimullah, Sutton, or Jahr, separately



or in combination disclose such limitations, and therefore claim 73 patently defines over the these references for at least this additional reason.

As discussed above, Argyroudis does not teach, suggest, or disclose the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires.

Lindstrom describes a remote surveillance system including a unique message comprising sensor identification information and status information (col. 5, lines 3-21). However, Lindstrom does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central unit (col. 5, lines 12-21). Thus, Lindstrom does not show the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires.

Karimullah describes a personal assistance system for use in a cellular communications system. The transmitter in Karimullah emits a service request, such as a request for assistance, which is received by a cellular tower and routed to a central processing center (col. 4, lines 42-64). While the service request buttons in Karimullah may correspond to a telephone number

(e.g. 911), the signal sent from transceiver 20 does not include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4 lines 3-14, and col. 4, lines 50-60). Instead, the spread spectrum burst of pulses sends the central processing center 90 a burst including “a preamble, timing refinement overhead, and data.” The data includes “a service request codeword ... , a control channel codeword ... and a transceiver identification codeword” (col. 4 lines 3-14, and col. 4, lines 50-60). Thus, Karimullah does not show the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires.

Sutton describes a remotely-monitored security system with control units at monitored sites (col. 3, lines 10-13). While Sutton’s control units appear to be able to initiate telephone calls to alert an operator of an event reported by the remote alarm systems, it does not teach, suggest, or disclose that a phone number is transmitted to a transceiver in the terminal unit with which to establish communication with the central monitoring station (col. 4, lines 41 – 57, and col. 4, line 66- col. 5, line 5). Thus, Sutton does not show the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires.

Jahr describes a utility usage data and event acquisition system. While Jahr does appear to send unique information to a remote station as alleged, the reference does not teach, suggest, or disclose that the remote sensors include a telephone number with which the transceiver in the terminal unit may establish communication with the central location (col. 4, lines 41 – 57). Thus, Jahr does not show the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires.

The Office Action has listed a battery of arguments with the general conclusion that it is obvious to send unique information of all kinds to a remote station. Applicant reemphasizes that the claim is directed not to merely sending a telephone number to a remote station, but to sending a telephone number to a transceiver for the purpose of the transceiver using the telephone number to contact a remote station and transmit the unique information. None of the references cited separately or in combination teach, suggest, or disclose the structure corresponding to the limitation of a “means for receiving an extremely low-power electromagnetic signal, the electromagnetic signal including an encoded message code **and a telephone number**” or the corresponding structure corresponding to a “means for transmitting a formatted electric signal over a phone line to a predetermined destination **identified by the telephone number** comprising part of the public switched telephone network (PSTN)” as claim 73 requires. Therefore, Applicant asserts that the subject matter of claim 73, as amended, is not disclosed,

taught, or suggested by and Lindstrom, or Karimullah, or Sutton, or Jahr as alleged in paragraph 4 of the Office Action.

In summary, for at least the forgoing reasons, Applicant submits that independent claim 73 patently defines over the combination of Argyroudis and Lindstrom, or Karimullah, or Sutton, or Jahr, and at least the foregoing reasons, the rejection of independent claim 73 should be withdrawn, and this claim allowed.